

August 7, 2008

Meeting began at 8:05 p.m.

Present: Bill Muse, Mayor; Randy Ripplinger, Wendell Roundy, Dennis Bertucci, Councilmembers; Judi Davis, Clerk; Marvin Bagley, Attorney; Tim Mutcher, Sergio Femenias and Peg Smith, Ray Nelson and Denise Pennington, Michael Risner and Jennifer Bach, Mark Nelson, Chuck Gurule, Cookie Schaus, Rick and Linda Crawford, Julie and Jason Ketchum, Tim Clarke, Daniel Reeder.

Pledge of allegiance

Dennis made a motion to accept the minutes of both meetings held July 3. Randy seconded the motion. The vote was unanimous.

Gladys has a School Board tax hearing and is excused tonight.

A public hearing to receive comment on the General Plan was held before this meeting. We will take at least a month to consider additional comments. The proposed document will be online, and a copy will be in the library.

Chuck Gurule has submitted an application for a business license for a mobile auto/diesel repair business. Randy made a motion we approve the application. Dennis seconded the motion. The vote was unanimous.

Peg, representing Tom Jerome, reported the following from the Park Committee: 1) the north end of the tract park has been fenced, the trees are planted, and the irrigation canal is prepared; 2) the footbridge opening has been prepared; 3) South Central Communications reported that the pole at the northwest corner of the park belongs to the Forest Service; Tom has talked and is continuing to talk to them; they have equipment to help us remove it and are willing to do so, but are first researching their records to confirm that they actually do own it; 4) Garkane Propane will move the propane line underground to the firehouse once a trench is prepared; 5) the Park Committee is requesting \$6,500 for the playground area; 6) Tim C. and Tom are working with Shane Coleman to design the sprinkler system; 7) they will need 12,800 square feet of sod at a cost of \$5,000 (delivered) to cover the front and south of the Town Hall grounds; 8) maintenance will be required after it is finished, and they recommend that we consider a budget of \$500 per season for mowing and trimming.

Tim Clarke presented a plan for the playground area and shelter. The playground area has been defined. Equipment will include the swings, horses, monkey bars, slides, and merry-go-round. The next projects will be the pathway and play area. They need \$3,500 for the sprinklers, which will be in by the end of this season. Tim Mutcher discussed the playground. There will be a three-towered structure made of steel. They would like to receive donations for more equipment. They also hope the Fire Department will have money to finish the parking lot, including putting the propane tank underground and installing a retaining wall. They are requesting that the Town buy one more culinary hookup. They would then deliver two hookups to one delivery point to provide the pressure needed for the sprinkler system. (Serena Stockmann and Todd Campbell came.)

The Park Committee is asking for the remaining \$22,000 from the grant. They want to take out the front fence and replace it with boulders as car stops and the hedge that has been planted. Mark feels we need some kind of fence because of the livestock that is still around. We will look at the front fence before approving this request. Todd suggested a rip gut fence would be a good historical reminder. Tim Clarke feels the boulders and bushes would make a fence unnecessary. They are asking for \$6,500 for the play area, \$3,500 for sprinklers and dirt work (and are looking for volunteers or \$2,500 to grade the grounds), \$5,000 for sod, \$4,000 for a water hookup, and some for the footbridge. If we have enough money, the town will purchase the extra hookup. We will use money from the grant to purchase it now and replace it when we open the budget to make other adjustments. Then the remaining money in the grant can be used for the footbridge and for grading if volunteers can't be found. Sam will donate a riding mower. Randy made a motion that we allocate \$19,000 for the projects as requested. Dennis seconded the motion. The vote was unanimous.

Mark and Bill sent the second installment of the SITLA packet last week. They sent the petition with 157 signatures, and there are others still coming in. When the time comes, SITLA will put into writing their decision and the explanation for it. There is still time to send letters of support for our position, but the sooner they are in, the better. We have identified parcels which would be available for trade, with support from other area officials. We have asked SITLA to delay making a decision. Anyone with questions can call Mark.

Dennis was asked to report on complaints of barking dogs at Crawfords' property. He was asked to visit with Rick, which he did, but the dogs continued barking into the night. Ray Gardner was called and cited Rick. Rick reported that he is working with Danny Perkins, who is recommending that Rick not be cited. Dennis stated that we are considering adopting a noise ordinance specific to dogs. We could adopt our own ordinance or adopt a part of the County's ordinance. The problem is that there is no authority to prosecute.

Dennis asked Marvin to comment. The County ordinance doesn't apply in the town. The problem with an ordinance is going to be enforcement. We would need the County to agree to enforce and prosecute. We don't have a town prosecutor. Marvin can do it if the County will deputize him. If we adopt a penalty that allows us to confiscate the dogs, what do we do with them? We can proceed with the state nuisance law. It has to be enforced criminally by the County Attorney or civilly by the Town Council and Town Attorney with civil action to abate the nuisance. A motion for an injunction is for immediate relief. Within a month we could have an order from a judge that the nuisance be abated.

Rick stated that he lives in greenbelt and it needs to be determined by a court if dogs can be considered a nuisance in that case. He is himself disturbed by other animals, wildlife, drums, and motorcycles. His dogs are upset by things beyond his control, such as other dogs, machinery, and trespassers. He doesn't want to be treated differently than others who also make noise. Ray N. feels owners should control their dogs. Linda stated that she doesn't hear them. Serena feels she shouldn't have to tell them when their dogs are barking. Denise stated that they have no quiet time. Rick responded that he will respect an ordinance but that he wants to see it enforced fairly and evenly. Ray feels the dogs are not under control. Rick asked if he has the right to have his dogs warn him if there is an

intruder? He will control them if he can afford a new kind of collar.

Bill asked Marvin for advice. Every case has to be judged separately. Rick doesn't raise dogs, but he makes part of his living with the dogs. (Eva Moore and Diane Aredondo came.) Bill asked Rick to consider the well being of the neighbors and get control of his dogs. Dennis will call the County Attorney to see where prosecution of the citation stands. Rick stated that the dogs have to be separated from people and other animals because of their breed and purpose. He has hoped to find a better place to put them, but hasn't found one. A physical barrier would not help. Bill feels we need immediate relief. Rick will do whatever he can to bring relief. Dennis will contact the County Attorney to see what they are doing. If they are prosecuting, we will back off. The Council authorized Marvin to do a civil abatement action. We can, in the meantime, be working on a nuisance ordinance which will be specific to barking dogs. Dennis made a motion that, if the County isn't going to prosecute for immediate relief, we authorize Marvin to begin a civil abatement action. Randy seconded the motion. Voting in favor were Bill, Randy, and Dennis. Abstaining was Wendell. Rick offered to try to keep the peace by whatever means he can and will communicate with Dennis. Linda asked that, if people have complaints, they call the Crawfords first.

Due to complaints of shooting in Lower Boulder, Marvin has been asked to report on the legality of shooting. He quoted from UCA 76-10-508 through (1)(b) (but which appears here in its entirety):

76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of any person, building, or vehicle -- Penalties.

(1) (a) A person may not discharge any kind of dangerous weapon or firearm:

- (i) from an automobile or other vehicle;
- (ii) from, upon, or across any highway;
- (iii) at any road signs placed upon any highways of the state;
- (iv) at any communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;
- (v) at railroad equipment or facilities including any sign or signal;
- (vi) within Utah State Park buildings, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or
- (vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:
 - (A) a house, dwelling, or any other building; or
 - (B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It is a defense to any charge for violating this section that the person being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of Subsection (1) is a class B misdemeanor.

(3) In addition to any other penalties, the court shall:

- (a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection **53-3-220(1)(a)(xi)**; and
- (b) specify in court at the time of sentencing the length of the revocation under Subsection **53-3-225(1)©**.

(4) This section does not apply to a person who:

- (a) discharges any kind of firearm when that person is in lawful defense of self or others;
- (b) is performing official duties as provided in Sections **23-20-1.5** and **76-10-523** and as otherwise provided by law; or
- (c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:
 - (i) the discharge occurs at a firing range or training ground;
 - (ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);
 - (iii) the discharge is made as practice or training for a lawful purpose;
 - (iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground prior to the discharge; and
 - (v) the discharge is not made in violation of Subsection (1).

We have received complaints about the legality of Gibbs Smith's and John Austin's signs. Judi will write to them and include applications for a Conditional Use Permit and a copy of the Sign Ordinance.

We need a website. Judi has done some research and has found that the offer to do it for \$4,000 is not out of line. She found one who was much more expensive and another who refused to do a town because it was too complicated, but at any rate wouldn't consider touching it for \$2,000. Bill recommended that we go ahead with the offer we have, but Jennifer Bach asked that we not decide tonight because she would like a chance to see what she could do it for. We will wait another month and give her a chance to make a proposal.

Roads: The County has complained of a problem at the Curtis Oberhansly/George Winovitch road. The fence encroaches on the road, and the County can't get a grader in. That is a County issue that we don't need to be involved in. The rough road by Aram Barsch's needs to be fixed. Wendell asked the County to bring us a load of mix to patch town roads where needed. Eva complained of a hole by Jack Pollock's that needs to be fixed. Todd will help fill holes.

No building permits were issued in July.

Dennis and Pete went to the meeting of the Community Impact Board to request funds for a new fire truck. The cost of the new truck will be met by a grant from the CIB, a donation from the County of \$35,000, and Town participation of \$9,400. The new truck has been made and will be ready soon. Dennis will need travel money. It will be cheaper for two people to go bring the truck back than to have it delivered by the company. They may be able to add a few more options to the truck with the money saved on delivery costs. It is a wildlands fire truck. We have six certified wildlands fire fighters. The truck

and men can be used by other agencies, who will pay for their services. This will help defray the cost of the truck. There was one fire last month—Bill Muse's tractor. There

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were no injuries and minimal damage to the fields. Chuck has fixed the trucks. We appreciate the financial help of the County and the grant writing expertise of Gary Zabriskie at Five County AOG.

Randy made a motion the meeting adjourn. Dennis seconded the motion. The vote was unanimous.

The meeting adjourned at 10:00 p.m.

Minutes prepared by Judith Davis, Town Clerk

Approved by Bill Muse, Mayor